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Barry Barclay

From: Barry Barclay [bjbarclay@shaw.ca]
Sent: Tuesday, February 10, 2004 9:33 AM
To: 'usptoinfo@uspto.gov'
Subject: FW: re: patent app 09/900,064; Examiner: Shelley A Dodson; Art Unit 1616

-----Original Message-----

From: Barry Barclay [mailto:bjbarclay@shaw.ca]
Sent: Tuesday, February 10, 2004 9:32 AM
To: 'usptoinfo@uspto.gov'
Subject: re: patent app 09/900,064; Examiner: Shelley A Dodson; Art Unit 1616

February 10, 2004

Re:	United States Patent Application No. 09/900,064 Title: B COMPLEX VITAMIN COMPOSITIONS THAT PROTECT AGAINST CELLULAR DAMAGE CAUSED BY ULTRAVIOLET LIGHT Examiner: Shelley A Dodson Art Unit 1616 Applicant & Inventor: BARCLAY, Barry J.
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Dear Ms Dodson: I am respectfully replying to the Examiner's second Office Action for this patent application in person. Because of a billing controversy, my previous patent attorneys Deeth Williams Wall in Toronto and their US affiliate are being replaced. In the meantime, I want to meet the due date to file a response of February 13, 2004.

Claims 1-42 are currently pending and the following prior art was cited against this patent application: United States patent no. 6,251,878 Strickland *et al.*

Novelty

Claims 1-42 were rejected as anticipated by Strickland *et al.* The Examiner stated that Strickland *et al.* disclose methods and compositions for the prevention and/or treatment of immunological damage to skin exposed to UV radiation. The compositions disclosed in Strickland *et al.* include vitamin B12, vitamin B3 and folic acid (ref column 11 starting at line 40). Therefore the Examiner concluded that it would have been obvious to one skilled in the art to employ the specific vitamin B12 compositions of the current invention in view of the teaching of Strickland *et al.*

We note that Strickland *et al.* claim compositions comprising only tamarind seed xyloglucan oligosaccharides. Vitamin B12, vitamin B3 and folic acid are included in a long shopping list of 49 different ingredients which function *to provide the hair with valuable nutrition* and may be combined with the xyloglucan oligosaccharides. Strickland *et al.* do not teach the specific use of vitamin B12, vitamin B3 and vitamin B9 alone or in combination for protection of skin from UV irradiation. Moreover, Strickland *et al.* do not provide any working examples of compositions containing these vitamins. Therefore, we argue that the compositions of the current invention are not the same compositions disclosed in the prior art. We also argue that vitamin B12, vitamin B3 and vitamin B9 cooperate in an unexpected manner and cooperate in an unknown way to give an unobvious result, namely protection from UV radiation, especially in children and individuals with extreme photosensitivity with conditions such as lupus.

2/11/2004

To further distinguish the current invention from the Strickland *et al.* publication, we would respectfully suggest if necessary to keep only those claims that are directed to specific formulations of vitamin B12, vitamin B3 and vitamin B9 (*i.e.* keep claims 21, 22 and 38 to 42). However, at this stage of prosecution, we wish to leave the pending claim set in its current form.

We look forward to receiving your comments with respect to this submission.

Please do not hesitate to call me if you have any questions.

Sincerely

Barry J Barclay Ph D

phone 780 460-8853

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